

EDWARD R. REINES (SBN 135960)
edward.reines@weil.com
SONAL N. MEHTA (SBN 222086)
sonal.mehta@weil.com
NATHAN GREENBLATT (SBN 262279)
nathan.greenblatt@weil.com
WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: 650-802-3000
Facsimile: 650-802-3100

Attorneys for Defendants
ADOBE SYSTEMS INCORPORATED
and ELECTRONIC ARTS INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DIGITAL REG OF TEXAS, LLC,

Plaintiff,

vs.

ADOBE SYSTEMS INCORPORATED, et al.,

Defendants.

Civil Case No. 12-CV-01971 CW (KAW)

**DECLARATION OF KEN
FEUERMAN IN SUPPORT OF
DEFENDANTS' MOTION FOR
PARTIAL SUMMARY JUDGMENT
OF NONINFRINGEMENT BASED ON
DIGITAL REG'S LICENSE TO
MICROSOFT**

1 I, Ken Feuerman, declare:

2 1. I am an employee of Defendant Adobe Systems Incorporated (“Adobe”)
3 in the above-captioned matter. I submit this declaration based on personal knowledge and
4 following a reasonable investigation. If called upon as a witness, I could competently testify to
5 the truth of each statement herein.

6 2. I have worked for Adobe for sixteen years, and my current job title is
7 Senior Computer Scientist. During my time at Adobe, I have worked extensively on Adobe’s
8 Digital Publishing Suite and related projects, including Adobe Digital Editions and Adobe
9 Content Server.

10 3. Adobe Content Server and Adobe Digital Editions are server-side and
11 client-side software, respectively, that allow eBook retailers and customers to distribute and
12 read eBooks. To that end, Adobe Content Server provides protection to electronic content to
13 ensure that only authorized users have access to the protected content, whereas Adobe Digital
14 Editions facilitates the acquisition and consumption of digital content by authorized end users.

15 4. The only servers that are supported by Adobe for the use of Adobe
16 Content Server are Linux or Microsoft Windows Server 32 bit or 64 bit servers. *See* ADOBE-
17 DR0057951. Similarly, the only databases that are supported by Adobe for the use of Adobe
18 Content Server are Microsoft SQL Server 2005 or later, MySQL 5 or later, and Oracle 10 or
19 later.

20 5. As mentioned previously, Adobe Content Server provides protection to
21 electronic content to ensure that only authorized users can access the protected content. For
22 Adobe Content Server running on a Microsoft Windows Server, all functionality is dependent
23 on the Microsoft server; nothing can be accomplished—including the authorization of a
24 particular user’s access to particular protected content—without the use of the physical
25 Microsoft server.

26 6. Similarly, for Adobe Content Server utilizing a Microsoft SQL Server
27 database, all functionality relating to granting access to protected content relies on the use of
28 the Microsoft database. For example, when Adobe Content Server receives a request for a

1 particular user's access to particular protected content, the entire process of authenticating that
2 user's request relies on the Microsoft SQL Server database. Information regarding the type and
3 level of protection afforded particular content is stored in the Microsoft database, as is
4 information regarding particular users. Thus, authorizing users' access to content necessarily
5 relies on and leverages the Microsoft database.

6 7. Adobe Digital Editions requires certain versions of either Microsoft
7 Windows or Macintosh operating systems to function. The Windows version of Adobe Digital
8 Editions functions only on computers on which an appropriate version of Microsoft Windows
9 has been installed.

10 8. As mentioned previously, Adobe Digital Edition facilitates the
11 acquisition and consumption of digital content by authorized end users. For Adobe Digital
12 Editions running on Microsoft Windows, all functionality is dependent on the Microsoft
13 operating system; nothing can be accomplished—including the authorization of a particular
14 user's access to particular protected content—without the use of the Microsoft operating
15 system.

16 9. For example, before a user accesses protected content with Adobe Digital
17 Editions for the first time, the Adobe Content Server must authorize access to that content for
18 that user. Access is then permitted as prescribed by that authorization. All aspects of the
19 communication with the Adobe Content Server during the authorization are mediated by the
20 Windows operating system.

21 I declare under the penalty of perjury under the laws of the United States of
22 America that the foregoing is true and correct.

23 Executed on June 17, 2013, at San Jose, California.

24 
25 Ken Feuerman